

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/765,926	FRISTOE ET AL.	
	Examiner	Art Unit	
	Michael W. Hoye	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to Amendment filed on 8/11/06 (and Interview on 8/24/06).

2.  The allowed claim(s) is/are 1-10, 20 and 25-26 (Renumbered as 1-14).

3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some\*    c)  None    of the:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.

(a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached

1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.

(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

- 1.  Notice of References Cited (PTO-892)
- 2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3.  Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
- 4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
- 5.  Notice of Informal Patent Application
- 6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
- 7.  Examiner's Amendment/Comment
- 8.  Examiner's Statement of Reasons for Allowance
- 9.  Other \_\_\_\_\_.

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicants, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with John Carpenter on September 27, 2006.

2. The application has been amended as follows: Claim 20 has been amended as follows:

20. (Currently Amended) A computer readable medium encoded with computer executable instructions, that, when loaded and executed by a computer, performs An electronic signal being any of transmitted, propagating through a medium, and received, that, when decoded from any of bit patterns, modulation, and other coding mechanisms or combinations thereof, comprises a rich media player constructed according to the method of Claim 1.

### ***Response to Arguments***

3. Applicants' arguments, see pages 7-11 of the Remarks, filed on August 11, 2006, with respect to claims 1-10, 20, 22 and 25-26 have been fully considered and are persuasive. The rejection of claims 1-10, 20, 22 and 25-26 has been withdrawn.

***Allowable Subject Matter***

4. Claims 1-10, 20, 22 and 25-26 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding independent claim 1, the prior art, alone or in combination, does not teach or fairly suggest a method comprising the steps of: after receipt of a rich media request from a consumer web browser invoking a link on an e-tailer web page, building a set of rich media players on-the-fly at a third party server, comprising, accessing a predefined template comprising a basic movie player having track locations and designed to operate at a predetermined connection speed, applying a set of selected tracks to the track locations of said template, saving the player in a place accessible on the third party server, and repeating the steps of accessing, applying and saving for each of a set of predefined templates designed to operate at different predefined connection speeds; receiving a connection speed identifier; uploading one of the built on-the-fly players corresponding to the connection speed identifier from the third party server to the consumer web browser; and serving the requested rich media content to the uploaded player.

As for the most pertinent prior art of record, the Parthasarathy et al (US 6,802,061) patent discloses methods and systems for automatically downloading (or sending), installing, and displaying virtually any type of component or plug-in, including a multimedia player (see Abstract and col. 2, line 20 – col. 3, line 62). However, the Parthasarathy et al patent does not build the multimedia player itself on-the-fly, in addition to uploading it, both after the receipt of the media request and the upload further occurring after receipt of the connection speed identifier, as does the Applicants' invention as described in claim 1.

The newly cited Armstrong et al (US 6,985,934) patent discloses a method and system for providing rich media content over a computer network. According to the disclosed invention, a server polls the software, hardware, or appliance of an end user on the network, for the availability of software and/or hardware necessary for the display of rich media content. The polling is automatic and requires no action on the part of the end user. Based on the client's response, the server sends an appropriately formatted version of the rich media file. Once the rich media has been transferred and stored, or cached, in the local memory of the client, the rich media content is displayed automatically in a designated display area (see Abstract and col. 5, line 41 – col. 8, line 67). Furthermore, Armstrong et al discloses that rich media files may be previously created and stored in memory, or may be created “on-the-fly” in response to the requirements of the client (see col. 7, lines 8-10). However, Armstrong et al does not teach or disclose creating rich media player(s) “on-the-fly” as does the Applicants’ claimed invention.

Any comments considered necessary by applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoye whose telephone number is **571-272-7346**. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at **571-272-7353**.

**Any response to this action should be mailed to:**

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Effective January 14, 2005, except correspondence for Maintenance Fee payments, Deposit Account Replenishments (see 1.25(c)(4)), and Licensing and Review (see 37 CFR 5.1(c) and 5.2(c)), please address correspondence to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, etc.) as follows:

United States Patent and Trademark Office  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Some correspondence may be submitted electronically. See the Office's Internet Web site <http://www.uspto.gov> for additional information.

**Or faxed to: 571-273-8300**

**Hand-delivered responses should be brought to the Customer Service Window at the address listed above.**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **571-272-2600**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

Michael W. Hoye  
September 27, 2006



**JOHN MILLER**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600